

NIGHT BOX  
FILED

APR 15 2003

CLARENCE MADDOX  
CLERK, USDC / SDFL / MIA

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,	)	CASE NO. 00-6309-CR-SEITZ
	)	
Plaintiff,	)	
	)	
v.	)	<b>DEFENDANT'S UNOPPOSED</b>
	)	<b>MOTION TO MODIFY</b>
	)	<b>PRE-SENTENCE INVESTIGATION</b>
	)	<b>REPORT</b>
JOSEPH SPITALERI,	)	
	)	
Defendant.	)	
_____	)	

Defendant, **JOSEPH SPITALERI**, by and through undersigned counsel, files this Unopposed Motion to Modify his Pre-Sentence Investigation Report ("PSI") and, as grounds therefore, states:

1. On October 24, 2000, Defendant was Indicted in this case.
2. On November 13, 2001, Defendant was sentenced to fifty-eight (58) months imprisonment followed by three years supervised release, ordered to pay restitution and ordered to participate in the Bureau of Prison's Drug Program.
3. On March 27, 2003 Defendant's sentence was reduced to forty-three (43) months imprisonment.

4. Paragraph seventy one (71) of the Pre-sentence Investigation Report states:  
“At age 44, from October 1999 through April 1, 2000, the Defendant had another relapse and snorted heroin daily until stopping after about six months.”

5. In the Pre-sentence Investigation Report, the probation officer did not specify the details of Defendant's drug use.

6. In order for Defendant to enroll in the Bureau of Prison's Drug Program, as ordered by this Court, paragraph 71 of the PSI must be revised to include the following:

Mr. Spitaleri relapsed in late November/early September of 2001, just prior to his first scheduled surrender date. Mr. Spitaleri used heroin on an almost daily basis, spending between \$50.00 and \$100.00 per day on obtaining the drug. Mr. Spitaleri would snort the heroin, or shoot same into his veins. As previously set forth in the PSI, Mr. Spitaleri contracted Hepatitis C from his intravenous drug use. At times, Mr. Spitaleri would withdraw money from his 84 year old mother's bank account to support his drug habit. Mr. Spitaleri's drug addiction caused frequent arguments between him and his family. Also, Mr. Spitaleri's work and home life were severely affected by his drug use. Mr. Spitaleri would often fall asleep throughout the day as a result of his drug usage. Mr. Spitaleri resorted to smoking 2 to 3 packs of cigarettes per day and reports, on at least one occasion, falling asleep with a cigarette in his hand.

7. Defendant has contacted Assistant United States Attorney Brian McCormick regarding the relief requested herein. Mr. McCormick advised that the Government has **no objection**.

8. The undersigned has contacted United States Probation Officer Tracey L. Webb with respect to the relief requested herein. Ms. Webb advised that the United States Probation Office has **no objection**.

WHEREFORE, Defendant, **JOSEPH SPITALERI**, for good cause shown, respectfully requests this Honorable Court grant his Unopposed Motion to Modify his Pre Sentence Investigation Report and such other and further relief as is just and proper.

Respectfully submitted,

**HIRSCHHORN & BIEBER, P.A.**  
Attorneys for Defendant  
Douglas Centre - Penthouse One  
2600 Douglas Road  
Coral Gables, Florida 33134  
Telephone #: (305) 445-5320  
Facsimile #: (305) 446-1766

By: 

**BRIAN H. BIEBER**  
Florida Bar # 8140

**JOEL HIRSCHHORN**  
Florida Bar No. 104573

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via facsimile and U.S. mail this 15<sup>th</sup> day of April, 2003 to: Brian McCormick, Assistant United States Attorneys, United States Attorney's Office, 500 East Broward Boulevard, Fort Lauderdale, FL 33394-3002 and Tracey L. Webb, U.S. Probation Officer, 299 E. Broward Blvd., Room 409, Ft. Lauderdale, Florida 33301-1168.

  
**BRIAN H. BIEBER**